

***United States Court of Appeals
for the Second Circuit***



APPENDIX

76-3025
76-1189

United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket Nos. 76-3025, 76-1189

VIRGIL ALESSI,

Petitioner-Defendant,

—against—

HONORABLE DUDLEY B. BONSAI,

UNITED STATES OF AMERICA,

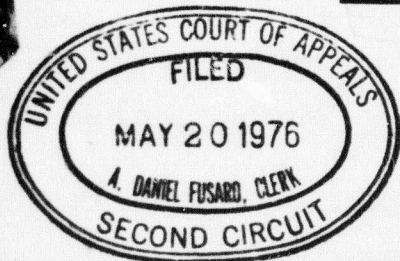
—against—

VIRGIL ALESSI,

Petitioner-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

APPENDIX FOR APPELLANT



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UNITED STATES OF AMERICA,

- v -

+ VIRGIL ALESSI,
+ ANTHONY PAPERNO,
+ JOHN D'AMATO,

+ LAWRENCE TARDOSI, a/k/a "Big Lou,"
+ JAMES PANDOLFO, a/k/a "Jimmy Pats,"

+ CRASIANO RIZZO, a/k/a Jo-Jo,

+ LEONARD RIZZO, a/k/a Louie,

+ JOSEPH BARONE, a/k/a Frankie,

+ FIORE RIZZO,

+ RENATO CROCE, a/k/a "Rene,"

+ PATEY AMATA, a/k/a "Rock,"

+ SNIDER BIANCHARD, a/k/a "Jap"

+ WILLIAM RUFT, and -

+ CHARLES BROOKS,

Defendants.

The Grand Jury charges:

1. From on or about the 1st day of January, 1963, and continuously thereafter up to and including June, 1973, in the Southern District of New York and elsewhere, ALESSI, PAPERNO, JOHN D'AMATO, LAWRENCE TARDOSI, a/k/a "Big Lou," JAMES PANDOLFO, a/k/a "Jimmy Pats," CRASIANO RIZZO, a/k/a "Jo-Jo," LEONARD RIZZO, a/k/a Louie, JOSEPH BARONE, a/k/a Frankie, FIORE RIZZO, RENATO CROCE, a/k/a "Rene", PATEY AMATA, a/k/a "Rock," SNIDER BIANCHARD a/k/a "Jap" WILLIAM RUFT and CHARLES BROOKS, the defendants, and Virgil Alessi, Vincent Papa, Anthony Loria, Anthony Paniredonis, a/k/a Ralphie, Louis Inglese, a/k/a "Gi-gi," Thomas Murray, a/k/a "Bruno," Frank Inglese, Frank D'Amato Charles Simmons, Richard Diamond, Alvin Clark, Mary Lobbey named herein as co-conspirators but not named as defendants, and others to the Grand Jury known and unknown, unlawfully, wilfully, intentionally and knowingly combined, conspired, confederated and agreed together and with each other to violate Sections 173, 174, 832, 841(a)(1) and 841(b)(1)(A) of Title 21, United States Code.

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2. It was part of said conspiracy that from January 1, 1968 up to and including May 1, 1971 the said defendants and co-conspirators unlawfully, wilfully and knowingly would receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a quantity of narcotic drugs, the exact amount thereof being to the Grand Jury unknown, after the said narcotic drugs had been imported and brought into the United States contrary to law in violation of Sections 173 and 174 of Title 21, United States Code.

3. It was further part of said conspiracy from on or about May 1, 1971 up to and including June, 1973 that the said defendants and co-conspirators unlawfully, wilfully, intentionally and knowingly would distribute and possess with intent to distribute Schedule I and II narcotic drug controlled substances, the exact amount thereof being to the Grand Jury unknown in violation of Sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21, United States Code.

OVERT ACTS

In pursuance of the said conspiracy and to effect the objects thereof, the following overt acts were committed in the Southern District of New York and elsewhere:

1. From in or about January, 1968 to April, 1970, the defendant LAWRENCE IAROSSEI a/k/a "Big Lou," and co-conspirator Anthony Manfredonia would receive one-quarter to one-half kilogram amounts of heroin twice a month in Queens, New York from co-conspirator Vincent Papa.

2. From in or about January, 1968 to April, 1970 the defendant LAWRENCE IAROSSEI and co-conspirator Anthony Manfredonia would deliver one-half kilogram amounts of heroin to co-conspirators Alvin Clark, Mary Mobley and defendant SNIDER BLANCHARD, a/k/a "Jap."

3. In or about the month of March, 1969, the defendant LAWRENCE IAROSSE, a/k/a "Big Lou" and co-conspirator Anthony Manfredonia, a/k/a "Ralphie" traveled from New York, New York to Pittsburgh, Pennsylvania.

4. In or about the month of January 1970, the defendants LAWRENCE IAROSSE, a/k/a "Big Lou" and GRAZIANO RIZZO, a/k/a "Ju-Ju," traveled from New York, New York to Pittsburgh, Pennsylvania to meet with another co-conspirator.

5. From in or about the month of January, 1970 to in or about the month of September 1970, the defendant GRAZIANO RIZZO, a/k/a "Ju-Ju" would deliver one half kilogram of heroin approximately every two weeks to other persons in Pittsburgh, Pennsylvania.

6. In or about the Spring of 1970, the defendants GRAZIANO RIZZO, a/k/a "Ju-Ju" and LIONARD RIZZO, a/k/a "Lennie", traveled to Pittsburgh, Pennsylvania.

7. From in or about the Summer of 1970 to February, 1972 the defendants ANTHONY PASSENO and JOHN D'AMATO together with their co-conspirators Virgil Alessi, Vincent Papa and Frank D'Amato would sell one-quarter to one kilogram quantities of heroin to the defendant JOSEPH BARONE and co-conspirator Anthony Manfredonia on a bi-monthly basis.

8. From in or about the Summer of 1970 to February, 1972 the defendant JOSEPH BARONE and co-conspirator Anthony Manfredonia would sell one-quarter to one half kilogram quantities of heroin to the defendants CHARLES BROOKS, WILLIAM HUFF, SNIDER BLANCHARD, a/k/a "Jap", PATSY ANITALA, a/k/a "Bock," GRAZIANO RIZZO, a/k/a "Ju-Ju" and co-conspirator ALVIN CLARK.

9. On or about July 8, 1971 the defendant JOHN D'AMATO had in his possession one-half kilogram of heroin in Queens, New York.

10. On or about July 8, 1971 the defendant ANTHONY PASSERO had a telephone conversation with co-conspirator Anthony Manfredonia.

11. On or about July 9, 1971 the defendant ANTHONY PASSERO had ten thousand dollars in his possession in Queens, New York.

12. In or about the summer of 1971 the defendant JAMES PANEBIANCO, a/k/a "Jimmy Feets" sold one-half of a kilogram of heroin.

13. In or about the Summer of 1971 the defendant JAMES PANEBIANCO, a/k/a "Jimmy Feets" received a sum of money from the defendant GRAZIANO RIZZO, a/k/a "Ju-Ju".

14. On or about April 24, 1972, co-conspirator Anthony Manfredonia, a/k/a "Ralphie" was at the Paradise movie theater in the Bronx, New York.

15. On or about April 26, 1972, the defendant FIORE RIZZO had in his possession approximately one quarter of a kilogram of heroin.

16. On or about March 20, 1972, co-conspirator Thomas Murray, a/k/a "Bruno" entered a car parked in the vicinity of Fordham Road and Webster Avenue in the Bronx, New York.

17. On or about November 25, 1972, the defendant PATEY ANATALA, a/k/a "Bart," had in his possession approximately 242 grams of heroin.

18. On or about January 19, 1973, co-conspirator Thomas Murray, a/k/a "Bruno," had in his possession approximately one eighth of a kilogram of heroin.

19. On or about February 6, 1973 the defendants GRAZIANO RIZZO, a/k/a "Ju-Ju," and RENATO CROCE, a/k/a "Tunc" had in their possession approximately one pound of heroin.

(Title 21, United States Code, Sections 173, 174 and 846.)

SECOND COUNT

The Grand Jury further charges:

In or about March, 1970, in the Southern District of New York, GRAZIANO RIZZO, a/k/a "Ju-Ju," the defendant, unlawfully, wilfully and knowingly did receive, conceal and facilitate the transportation and concealment of a narcotic drug; to wit, approximately one kilogram of heroin after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs may find necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174.)

THIRD COUNT

The Grand Jury further charges:

In or about March, 1970, in the Southern District of New York, GRAZIANO RIZZO, a/k/a "Ju-Ju," the defendant, unlawfully, wilfully and knowingly did receive, conceal and facilitate the transportation and concealment of a narcotic drug; to wit, approximately one kilogram of cocaine after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs may find necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174.)

FOURTH COUNT

The Grand Jury further charges:

In or about April, 1970, in the Southern District of New York, CRAZIANO RIZZO, a/k/a "Ju-Ju" and LEONARD RIZZO, a/k/a Lennie, the defendants, unlawfully, wilfully and knowingly did receive, conceal and facilitate the transportation and concealment of a narcotic drug; to wit, approximately one kilogram of heroin after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs may find necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174, Title 18, United States Code Section 2.)

FIFTH COUNT

The Grand Jury further charges:

In or about November, 1970 in the southern district of New York, VIRGIL ALESSI, the defendant, unlawfully, wilfully and knowingly did receive, conceal and facilitate the transportation and concealment of a narcotic drug, to wit, approximately one quarter of a kilogram of heroin after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs may find necessary to provide for medical and legitimate uses only, is prohibited.

(Sections 173 and 174, Title 21, United States Code and Title 18, United States Code, Section 2.)

SIXTH COUNT

The Grand Jury further charges:

In or about February, 1971, in the Southern District of New York, JOSEPH MARONE, a/k/a "Frankie," the defendant, unlawfully, wilfully and knowingly did receive, conceal and facilitate the transportation and concealment of a narcotic drug; to wit, approximately one-half kilogram of heroin after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs may find necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174.)

SEVENTH COUNT

The Grand Jury further charges:

In or about February, 1971 in the Southern District of New York, VIRGIL ALESSI, the defendant, unlawfully, wilfully and knowingly did receive, conceal and facilitate the transportation and concealment of a narcotic drug, to wit, approximately one-eighth of a kilogram of heroin after the said narcotic drug had been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs may find necessary to provide for medical and legitimate uses only, is prohibited.

(Sections 173 and 174, Title 21, United States Code and Title 18, United States Code, Section 2.)

EIGHTH COUNT

The Grand Jury further charges:

During the period from October to December, 1970, 1970, in the Southern District of New York, SNIDER BLANCHARD, a/k/a "Jap" the defendant, unlawfully, wilfully and knowingly did receive, conceal and facilitate the transportation and concealment of a narcotic drug, to wit, approximately two kilograms of heroin after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs may find necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174.)

NINTH COUNT

The Grand Jury further charges:

During the period from January to April, 1971 in the Southern District of New York, SNIDER BLANCHARD, a/k/a "Jap," the defendant, unlawfully, wilfully and knowingly did receive, conceal and facilitate the transportation and concealment of a narcotic drug, to wit, approximately two kilograms of heroin after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs may find necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174.)

THIRD COUNT

The Grand Jury further charges:

In or about February or March of 1971, in the Southern District of New York, JAMES PARENTEANO, a/k/a "Jimmy Feet", the defendant, unlawfully, intentionally and knowingly did receive, conceal and facilitate the transportation and concealment of a narcotic drug, to wit, approximately one-half kilogram of heroin, after the said narcotic drug had been imported and brought into the United States, contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs may find necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174.)

FOURTH COUNT

The Grand Jury further charges:

In or about July, 1971, in the Southern District of New York, CHARLES RIZZO, a/k/a "Cha-Cha" and LEONARD RIZZO, a/k/a "Lemuda," the defendants, unlawfully, intentionally and knowingly did distribute and possess with the intent to distribute a Schedule I narcotic drug, controlled substance, to wit, approximately one-half kilogram of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2)

FIFTH COUNT

The Grand Jury further charges:

In or about the Summer of 1971 in the Southern District of New York, JAMES PARENTEANO, a/k/a "Jimmy Feet" the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately

one-half of a kilogram of heroin.

(Title 21, United States Code, Sections 812,
841(a)(1) and 841(b)(1)(A).)

INTERMEDIATE

The Grand Jury further charges:

In or about the Summer of 1971, in the Southern District of New York, CHARLES BODDYS, the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately one-half of a kilogram of heroin.

(Title 21, United States Code, Sections 812,
841(a)(1) and 841(b)(1)(A).)

INTERMEDIATE

The Grand Jury further charges:

During the period from June, 1971 to December, 1971 in the Southern District of New York, PAISY ABATALA, /a Book and WILLIAM HUNT, the defendants, unlawfully intentionally and knowingly did distribute and possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately six kilograms of heroin.

(Title 21, United States Code, Sections 812,
841(a)(1) and 841(b)(1)(A).)

INTERMEDIATE

The Grand Jury further charges:

In or about December, 1971 in the Southern District of New York, VIRGIL ALLESSI, the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately one-quarter of a kilogram of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A) and Title 18, United States Code, Section 2).

SIXTH COUNT

The Grand Jury further charges:

In or about the Summer of 1971 in the Southern District of New York, VIRGIL ALESSI, the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately one-quarter of a kilogram of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

SEVENTEENTH COUNT

The Grand Jury further charges:

In or about the Summer of 1971 in the Southern District of New York, VIRGIL ALESSI, the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately one-quarter of a kilogram of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A) and Title 18, United States Code, Section 2.)

EIGHTEENTH COUNT

The Grand Jury further charges:

In or about the Fall of 1971 in the Southern District of New York, ANTHONY PASSELO, the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately one kilogram of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A) and Title 18, United States Code, Section 2.)

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NINETEENTH COUNT

The Grand Jury further charges:

On or about the 26th day of April, 1972, in the Southern District of New York, FLORE BIZZO, the defendant, unlawfully, intentionally and knowingly did distribute and possess with the intent to distribute a Schedule I narcotic drug controlled substance, to wit approximately one-quarter of a kilogram of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A)).

TWENTIETH COUNT

The Grand Jury further charges:

In or about the Summer of 1972 in the Southern District of New York, SNIDER BLANCHARD, a/k/a "Jap" the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute, a Schedule I narcotic drug controlled substance, to wit, approximately one-half of a kilogram of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

TWENTY-FIRST COUNT

The Grand Jury further charges:

On or about the 25th day of November, 1972, in the Southern District of New York, PAISY AMATAIA, a/k/a "Bart," the defendant, unlawfully, knowingly and intentionally did distribute and possess with the intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately 242 grams of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A)).

TWENTY-SECOND COUNT

The Grand Jury further charges:

On or about the 16th day of January, 1973, in the

File No
n-573

Southern District of New York, GRAZIANO RIZZO, a/k/a "Ju-Ju," and RENATO CROCE, a/k/a "Rene" the defendants, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately 383 grams of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

TWENTY-THIRD COUNT

The Grand Jury further charges:

On or about the 6th day of February, 1973, in the Southern District of New York, GRAZIANO RIZZO, a/k/a "Ju-Ju," and RENATO CROCE, a/k/a "Rene," the defendants, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately one half kilogram of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

FORWARDED

FRANK J. CONRAD
United States Attorney

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA :

-v- :

BILL OF PARTICULARS

VIRGIL ALESSI, et al., :

S 75 Cr.772 (DBB)

Defendants. :

The United States of America for its Bill of
Particulars herein alleges as follows:

1. Overt Act Number 1 took place from in or
about January of 1968 to April of 1970 (exact times and
dates unknown) at various locations in New York City,
including the vicinity of the Astoria Colts Social Club,
41-16 Ditmars Boulevard, Astoria, Queens; The Neptune
Diner, 31-05 Astoria Boulevard, Astoria Queens; 1483
Stadium Avenue, Bronx, New York.

2. Overt Act Number 2 took place from in or
about January of 1968 to April of 1970 (exact times and
dates unknown) at various locations in New York City,
including, with respect to the defendant Blanchard,
enroute from La Guardia Airport in Queens to Penn Station
at 32nd Street and Seventh Avenue in Manhattan; and
at 167th Street and the Grand Concourse, Bronx, New
York and at various locations in Baltimore, Maryland,
including a Laundromat owned by the defendant Snider
Blanchard (address unknown) and to an apartment owned

delivered during this same period of time to the defendant.

Blanchard by co-conspirator Anthony Simonetti and to co-conspirators Mabley and Clark in New York and Pittsburgh, Pennsylvania.

3. Overt Act Number 3 took place in or about the month of March, 1969 (exact time and date unknown) from New York to the Dog Hut Restaurant, 2207 Mahon Street, Pittsburgh, Pennsylvania.

4. Overt Act Number 4 took place in or about the month of January, 1970 (exact time and date unknown). The defendants Iarossi and Graziano Rizzo travelled from New York City to the Allegheny General Hospital in Pittsburgh, Pennsylvania, and met with co-conspirator Alvin Clark.

5. Overt Act Number 5 took place from in or about January of 1970 to in or about September of 1970 (exact time and dates unknown) from New York City to various locations in Pittsburgh, Pennsylvania, including the Greater Pittsburgh International Airport and 2609 Perryville Avenue.

6. Overt Act Number 6 took place in or about April or May of 1970 (exact time and date unknown).

7. Overt Act Number 7 took place approximately once every two weeks from in or about the summer of 1970 to February 1972 (exact times and dates unknown) at various locations in Queens, New York, including the vicinities of Scotts Pub at 38-40 Twenty-Ninth Street, Long Island City, Queens, New York; the Madison Diner, 31-05 Boulevard, Astoria, Queens, New York; a Lincoln Mercury

Dealer, located on Northern Boulevard, approximately one block from Steinway Street, in Queens, New York, and the vicinity of a bar on Northern Boulevard (exact address unknown).

8. Overt Act Number 8 took place from in or about the summer of 1970 to February of 1972 at various locations in Manhattan, Queens, the Bronx, Pittsburgh, Pennsylvania and Baltimore, Maryland, including an apartment in a building at 81st Street and First Avenue in Manhattan occupied by the defendant Huff, in a car occupied by the defendant Blanchard driven from LaGuardia Airport to Pennsylvania Station in Manhattan; and in Baltimore, Maryland at a Laundromat owned by the defendant Blanchard and in the defendant Blanchard's apartment, and in an apartment over a Liquor store owned by the defendant Brooks and the co-conspirator Clark at various locations in New York and Pittsburgh, Pennsylvania.

9. Overt Act Number 9 took place at an apartment at 46-01 39th Avenue in Queens, New York, at approximately 11:05 P.M.

10. Overt Act Number 10 took place in a telephone call from co-conspirator Manfredonia in Scotts Pub, 38-40 Twenty-Ninth Street in Long Island City, New York to defendant Passero.

11. Overt Act Number 11 took place in Scotts Pub, 38-40 Twenty-Ninth Street in Long Island City, New York.

12. Overt Act Number 12 took place in the summer of 1970 (exact date and time unknown) at the home of co-conspirator Anthony Manfredonia, 1483 Stadium Avenue, Bronx, New York.

13. Overt Act Number 13 took place in the summer of 1971 (exact date unknown) at the home of the defendant Panne Bianco, 817 Quincy Avenue, Bronx, New York.

14. Overt Act Number 14 took place in the evening of April 24, 1972.

15. Overt Act Number 15, took place at about 11:25 p.m. on April 26, 1972, at various locations in the Bronx including the vicinity of Lyon Avenue and Parker Street in the Bronx, New York.

16. Overt Act Number 16 took place on Webster Avenue in the vicinity of Fordham Road in the Bronx, New York.

17. Overt Act Number 17 took place on November 25, 1972, in the vicinity of 2868 Sampson Avenue, Bronx, New York.

18. Overt Act Number 18 took place on Scott Street between New Avenue and Bronx River Road in Yonkers, New York.

19. Overt Act Number 19 took place in the evening of February 6, 1973, at various locations in the Bronx including in front of 1013 East 222nd Street, Bronx, New York

(Title 21, United States Code, Sections 173, 174, and 846.)

SECOND COUNT

The Second Count took place on or about March 19,

unknown) and later that day at La Guardia Airport in Queens, New York.

THIRD COUNT

The Third Count took place on or about March 19, 1970, at various locations in the Bronx (exact locations unknown) and later that day at La Guardia Airport in Queens, New York.

FOURTH COUNT

The Fourth Count took place in or about the month of April, 1970 (exact time and date unknown) in the Bronx and at various other locations in the Southern District of New York (exact locations unknown).

FIFTH COUNT

The Fifth Count took place in or about the month of November, 1970, on Northern Boulevard in Queens, New York (exact address unknown) where the defendants Alessi and Passero gave the heroin to co-conspirator Manfredonia who returned to the Southern District of New York where the heroin was distributed. The defendant Alessi is charged as an aider and abettor.

SIXTH COUNT

The Sixth Count took place in or about the month of February, 1971 (exact time and date unknown) in the Bronx and at various other locations in the Southern District of New York (exact locations unknown).

SEVENTH COUNT

The Seventh Count took place in or about February of 1971 (exact time and date unknown) around the corner from Scott's Pub, 38-40 29th Street, Long Island City, New York, where the heroin was delivered by Alessi to co-conspirator Manfredonia who returned with the heroin to the Southern District of New York where the heroin was distributed to others. The defendant Alessi is charged.

EIGHTH COUNT

The Eighth Count took place in or about the months of October to December, 1970, at a week to two-week intervals (exact times and dates unknown) in a car driven by co-conspirator Manfredonia from La Guardia Airport to Penn Station in Manhattan.

NINTH COUNT

The Ninth Count took place from in or about January to April, 1971, at week to two week intervals (except time and dates unknown) at the locations and in the manner described in the Eighth Count above.

TENTH COUNT

The Tenth Count took place in or about February or March of 1971 (exact dates unknown) at 817 Quincy Avenue, Bronx, New York.

ELEVENTH COUNT

The Eleventh Count took place in or about the month of July, 1971, in the Bronx and at various other locations in the Southern District of New York (exact locations unknown) and in Pittsburgh, Pennsylvania.

TWELFTH COUNT

The Twelfth Count took place in the summer of 1971 (exact time and date unknown) at 1483 Stadium Avenue, Bronx, New York.

THIRTEENTH COUNT

The Thirteenth Count took place in or about the summer of 1971 (exact time and date unknown) in an apartment located above a liquor store in Manhattan (address unknown)

FOURTEENTH COUNT

The Fourteenth Count took place at 1483 Stadium Avenue, Bronx, New York, in an apartment in a building at 81st Street and First Avenue in Manhattan occupied by the defendant Huff on weekly occasions during September to December, 1971, until a total of 3 1/2 kilograms of heroin

was distributed.

FIFTEENTH COUNT

The Fifteenth Count took place in or about December of 1970 (not 1971) in front of Scott's Pub at 38-40 29th Street, Long Island City, New York, where the heroin was delivered by the defendant Alessi to co-conspirator Manfredonia who transported it to the Southern District of New York where it was distributed to others. Alessi is charged as an aider and abettor. *Caner. Feb 1971*

SIXTEENTH COUNT

The Sixteenth Count took place in or about the summer of 1971 (exact time and date unknown) in the vicinity of a Lincoln-Mercury dealership on Northern Boulevard approximately one block from Steinway Street in Queens, New York, where co-conspirator Manfredonia received one-quarter or one-half kilogram of heroin from the defendant Alessi and transported it to the Southern District of New York where the heroin was distributed to others by Manfredonia. The defendant Alessi is charged as an aider and abettor.

SEVENTEENTH COUNT

The Seventeenth Count took place in the summer of 1971 (exact time and date unknown) in the vicinity of a bar on 39th Avenue in Queens, New York (exact address unknown) where the defendant Alessi gave one-quarter or one-half of a kilogram of heroin to co-conspirator Manfredonia who subsequently transported the heroin to the Southern District of New York where the heroin was distributed to others. The defendant Alessi is charged as an aider and abettor.

EIGHTEENTH COUNT

The Eighteenth Count took place in the fall of 1971 (exact time and date unknown) in the vicinity of a Lincoln-Mercury dealership on Northern Boulevard, one block from Steinway Street, Queens, New York, where the defendant Passero distributed the heroin to co-conspirator Manfredonia who transported the heroin to the Southern District of New York where it was distributed by Manfredonia to others. The defendant Passero is charged as an aider and abettor.

NINETEENTH COUNT

The Nineteenth Count took place on April 26, 1972, near the corner of Lyon Avenue and Parker Street in the vicinity of Parkchester General Hospital in the Bronx.

TWENTIETH COUNT

The Twentieth Count took place in the summer of 1972 (exact time and date unknown) in a car driven by co-conspirator Manfredonia enroute from LaGuardia Airport in Queens, New York, to the Pennsylvania Railroad Station in Manhattan.

TWENTY-FIRST COUNT

The Twenty-first Count took place on the 25th day of November, 1972, in a garage located at 2368 Sampson Avenue, Bronx, New York.

TWENTY-SECOND COUNT

The Twenty-second Count took place at about 10:30 P.M. on January 16, 1973, at 1013 East 222nd Street, Bronx, New York.

TWENTY-THIRD COUNT

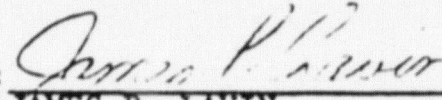
The Twenty-third Count took place on February 6, 1973, at various locations in the Bronx including a car
New York.

JPL:wp

Colin Carroll, Richard Carroll, Louis Pugliese and
Ralph Navedo are additional co-conspirators.

THOMAS J. CAHILL
United States Attorney for the
Southern District of New York

By:

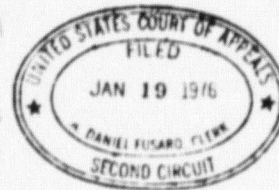

JAMES P. LAVIN

Assistant United States Attorney

76-1021
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AH

UNITED STATES COURT OF APPEALS

Second Circuit



At a Stated Term of the United States Court of Appeals, in and for the Second Circuit, held at the United States Court House, in the City of New York, on the nineteenth day of January one thousand nine hundred and seventy-six.

United States of America,

Plaintiff-Appellee

v.

Virgil Alessi,

Defendant-Appellant.

It is hereby ordered that the motion made herein by counsel for the

~~XXXXXXXXXX~~ appellee ~~XXXXXXXXXXXXXXXXXXXX~~ ~~XXXXXXXXXXXXXXXXXXXX~~

~~XXXXXXXXXXXXXXXXXXXX~~ dated January 16, 1976 to dismiss the appeal from the United States District Court for the Southern District of New York for lack of jurisdiction

be and it hereby is ~~XXXXXXXXXX~~ denied.

It is further ordered that the application before the court is treated as a petition for a writ of mandamus and is granted. Judge Bonsai to either sever defendant or hold an evidentiary hearing before trial on whether or not defendant should stand trial or have indictment dismissed.

A. DANIEL FUSARO
Clerk

by
Senior Deputy Clerk

BEFORE: HON. J. EDWARD LUMBARD

HON. J. JOSEPH SMITH

HON. WALTER R. MANSFIELD

Circuit Judges

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

- - - - -x

UNITED STATES OF AMERICA,

-against-

VIRGIL ALESSI, et al.,

Dkt. No. 76-1021

Defendants.

- - - - -x

Virgil Alessi has filed a notice of appeal from an order of the district court which he regards as denying his motion to dismiss the indictment in the above-entitled case, filed on August 4, 1975, charging him and 13 others with conspiracy to violate the federal narcotics laws and certain substantive violations. Alessi is named as an unindicted co-conspirator in the conspiracy count and as a defendant in five substantive counts in which he is charged with aiding and abetting Anthony Manfredonia in the transportation, distribution and possession of large quantities of heroin in violation of 21 U.S.C. §§173, 174, 841(a)(1), 841(b)(1)(a), and 18 U.S.C. §2.

In November 1975 Alessi moved to dismiss the indictment against him on the ground that the prosecution of him in this proceeding amounts to a denial of due process for the reason that it violates the terms of a plea-bargain agreement consummated by his plea of guilty on October 2, 1972, in the Eastern District of New York to an information charging a conspiracy to violate the narcotics laws during the period from April 1, 1969 to December 18, 1971. According to Alessi the plea-bargain agreement was that Alessi would not be prosecuted for any overt act committed

during the course of that conspiracy which might constitute a substantive violation of the narcotics laws. In support of his motion Alessi contends that the substantive counts in the present case violate the plea-bargain agreement.

On December 29, 1975, Judge Bonsal reserved decision on the motion until the conclusion of the trial, which is scheduled to commence on January 20, 1976, on the ground that the evidence at trial might be of assistance in determining whether the matters charged in this case were included in defendant's plea-bargain agreement. Upon the government's motion to dismiss this appeal Alessi contended that his appeal was filed for the purpose of preventing his being forced to undergo a four-week trial of this case although the indictment should be dismissed pursuant to the government's agreement. He reasons that failure to dismiss the indictment subjects him to the substantial equivalent of double jeopardy. See United States v. Beckerman, 516 F.2d 905 (2d Cir. 1975). In the alternative he argues that he is at least entitled to an evidentiary hearing before trial on the issue of whether this prosecution is barred by the plea-bargain agreement. He asks that the district court be directed to grant such a hearing.

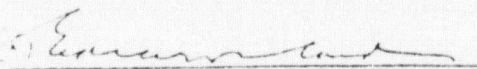
Rather than pass upon the question of whether denial of Alessi's motion to dismiss the indictment is appealable we choose to treat his application as a petition for a writ of mandamus. The petition is granted to the extent that the district court is directed either to conduct an evidentiary hearing before the trial and decide whether the further prosecution of Alessi would deny him due process because it would violate the terms of the 1972 plea-bargain

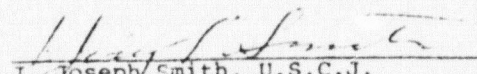
agreement, or to grant a severance of Alessi, proceed with the trial of the other defendants, and decide Alessi's motion at a later date.

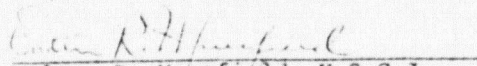
We believe this is one of those exceedingly rare cases where mandamus lies in a criminal case. Cf. Hilbert v. Dooling, 476 F.2d 355, 362 (2d Cir.), cert. denied, 414 U.S. 878 (1973). In view of the showing made in the papers in support of the writ and in opposition to the government's motion to dismiss, the district court should not require Alessi to undergo a trial estimated to last four weeks unless and until it decides the preliminary issue of whether prosecution is precluded by the plea-bargain agreement. Alessi represents that on a preliminary hearing he would rely on the record made in the similar case of United States v. Papa, 74 Cr. 1082. The government in turn states that it would call two witnesses, whose testimony should not last more than two days.

Treating the appeal as a petition for a writ of mandamus, and upon consideration thereof, it is hereby

ORDERED that the district court either proceed with the evidentiary hearing and decision of Alessi's motion before trial or sever the defendant Virgil Alessi.


J. Edward Lumbard, U.S.C.J.


J. Joseph Smith, U.S.C.J.


Walter R. Mansfield, U.S.C.J.

January 20, 1976

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
UNITED STATES OF AMERICA

-v-

VIRGIL ALESSI,

Defendant.
----- x

875 Cr. 772

#44/184

HON. ROBERT B. FISKE, JR.,
United States Attorney for the
Southern District of New York
Attorney for United States of America
JAMES P. LAVIN, ESQ.,
Assistant United States Attorney
Of Counsel

NANCY ROSNER, ESQ.
401 Broadway, New York, N.Y. 10013
Attorney for Defendant

MICROFILM

APR 1976

MEMORANDUM

BONSAL, D. J.

(875 Cr. 772),

In an indictment filed August 4, 1975, defendant Virgil Alessi is charged in five substantive counts with the transportation, distribution and possession of large amounts of heroin in violation of 21 U.S.C. §§ 173, 174, 841(a)(1), 841(b)(1)(A) and 18 U.S.C. §2. Alessi is also named as an unindicted co-conspirator in Count 1 of the indictment which charges Lawrence Iarossi and 12 others with a conspiracy to violate the federal narcotics laws between January 1,

81

1968 and June 1973.

In November 1975, Alessi moved to dismiss the indictment against him on the ground that the prosecution would amount to a denial of due process for the reason that it ^{would} violate the terms of a plea-bargain agreement with the U.S. Attorney's Office in the Eastern District of New York under which he pled guilty on October 2, 1972 to an Information charging a conspiracy to violate the narcotics laws between April 1, 1969 and December 18, 1971. According to Alessi, the plea-bargain agreement provided that Alessi would not be prosecuted with respect to any overt acts committed during the course of the Eastern District conspiracy which might constitute a substantive violation of the narcotics laws. Alessi contends that the present indictment violates the plea-bargain agreement and that his prosecution would therefore amount to a denial of due process.

In an Endorsement filed December 29, 1975, this Court reserved decision on Alessi's motion to dismiss the indictment until the conclusion of the trial, on the ground that the evidence at trial might be of help in determining whether the matters set forth in the indictment were included in Alessi's alleged plea-bargain agreement and whether the evidence demonstrates that Alessi is entitled to claim double jeopardy.

Alessi appealed, and on January 19, 1976, the day before the trial was to commence, the Court of Appeals heard oral argument and in a ruling from the bench treated Alessi's application as a petition for a writ of mandamus. ^{1/} The Court of Appeals directed that

the district court either conduct an evidentiary hearing before trial to decide whether the further prosecution of Alessi would deny him due process because it would violate the terms of the 1972 plea-bargain agreement, or grant a severance of Alessi and proceed to trial with the other defendants and decide Alessi's motion at a later date.

On January 19, 1976, Alessi was severed and the trial of the remaining seven defendants commenced on January 21, 1976.^{2/} (Hereinafter referred to as the "Iarossi" trial).

The Court held an evidentiary hearing on Alessi's motion on February 11, 1976, at which Alessi and the Government stipulated that they would rely on the record made of an evidentiary hearing on similar issues in the case of United States v. Papa, et al., 74 Cr. 1082, conducted by Judge Brieant on January 16, 1975,^{3/} and on the record made at a hearing on Indictment 75 Cr. 687 before Judge Judd in the Eastern District on October 17, 1975. Both parties stated that they would file supplemental memoranda of law.

Alessi's position is that the plea-bargain agreement worked out between Vincent Papa, Alessi's co-conspirator in the Eastern District indictment, and Special Strike Force Attorney James O. Druker extended equally to Alessi, and that he pled guilty to Information 72 Cr. 1133 in the Eastern District in reliance on the promises and representations made by Druker, so that the Government is estopped from proceeding to trial on the present indictment.

On the other hand, the Government contends that Druker's promises in the plea-bargain agreement with Papa did not extend to

Alessi, that Alessi did not plead guilty to the Information in reliance on such promises and, in any event, that the plea-bargain agreement in the Eastern District did not cover the indictment in the Southern District of New York. Furthermore, the Government contends that Alessi's alleged narcotics violations in Counts 5, 7, 15, 16 and 17 of the Southern District indictment are separate and apart from the Eastern District conspiracy.

It appears that the major issues raised by Alessi's motion are, first, the scope and extent of the 1972 plea-bargain agreement, and second, the makeup of the two alleged conspiracies, one being the conspiracy in the Eastern District Indictment 72 Cr. 473 and the other being the conspiracy covered in the Southern District Indictment 75 Cr. 772. Alessi's claim of double jeopardy rests, in part, upon his contention that the two conspiracies charged in the two separate indictments are one and the same, that the substantive counts in the Southern District indictment in which he is named arise out of overt acts in the Eastern District indictment; and that prosecution on the present indictment would be a violation of his constitutional rights.

In view of the stipulation of the parties at the evidentiary hearing, the record before the Court consists of the two indictments, sworn affidavits from Assistant United States Attorneys, memoranda of law, the record of the evidentiary hearing

before Judge Brieant on January 16, 1975, the record of the hearing before Judge Judd on October 17, 1975, and the evidence produced at the Iarossi trial.

The Eastern District Conspiracy

On January 24, 1972, Indictment 72 Cr. 88 was filed in the Eastern District charging Alessi, Vincent Papa, Anthony Passero, Anthony Loria and others with conspiracy to violate the federal narcotics laws between April 1, 1967 and December 13, 1971. This indictment was obtained almost entirely on the grand jury testimony of Angelo Paradiso.

Then, on April 17, 1972, Indictment 72 Cr. 433 was filed in the Eastern District naming Alessi, Roden Evangelista, Danny Ranieri and others unknown to the grand jury as defendants and charging them with conspiracy to violate the federal narcotics laws from March 1, 1971 through December 13, 1971. This indictment was returned on the basis of the testimony of Stanton Garland.

Finally, on May 1, 1972, Indictment 72 Cr. 476 was filed in the Eastern District consolidating the two previous indictments. This indictment charged Alessi, Papa, Passero, Anthony Loria, Frank D'Amato,^{4/} William Huff and 16 others with conspiracy to violate the federal narcotics laws through the transportation, concealment, distribution and sale of heroin between April 1, 1967 and December 13, 1971. In addition, Alessi, Papa, Passero, Loria and D'Amato were charged with engaging in a continuing criminal enterprise in violation of 21 U.S.C. §848. It appears that Alessi, Papa, Passero,

Loria and D'Amato were the supervisors or managers of the criminal enterprise and that the other defendants were distributors.

The Southern District Conspiracy

On February 21, 1975, Indictment 75 Cr. 170 was filed in the Southern District charging Anthony Manfredonia, Lawrence Iarossi and seven others with conspiracy to violate the federal narcotics laws from January 1, 1968 through the date of the filing of the indictment. Also named as co-conspirators but not named as defendants were Anthony Loria, Louis Inglese, Charles Simmons and Richard Diamond.

Then, on August 4, 1975, the present indictment, 75 Cr. 772, was filed superseding Indictment 75 Cr. 170. The superseding indictment charges Anthony Passero, John D'Amato, Lawrence Iarossi, and 10 others with conspiracy to violate the federal narcotics laws and certain substantive violations thereof between January 1, 1968 and June 1973. Virgil Alessi, Vincent Papa, Anthony Loria, Anthony Manfredonia, Louis Inglese, Thomas Murray, Frank Pugliese, Frank D'Amato, Charles Simmons, Richard Diamond, Alvin Clark and Mary Mobley are named as co-conspirators but not as defendants. Alessi is named as a defendant in five substantive counts.

From the evidence introduced at the Iarossi trial it appears that Anthony Manfredonia and Lawrence Iarossi were partners in the heroin business from 1967 through the early part of 1970, that they distributed heroin to customers in the Bronx, Baltimore, Md., and Pittsburgh, Pa., (U.S. v. Iarossi, et al., 75 Cr. 772,

7 8 v
Transcript at 401), and that they would obtain heroin from Vincent Papa and Anthony Passero at the Astoria Colts Club on Ditmars Boulevard in Queens. (Tr. at 391, 399).

Later, it appears that Manfredonia and Joseph Barone became the core members of the alleged conspiracy (the "Bronx" group) (Tr. at 430), that they would obtain heroin from Alessi, Papa, Passero and Frank D'Amato, (the "Queens" group) (Tr. at 432-33, 441-42), and in turn pass it on to their customers for ultimate distribution. The core members would occasionally obtain heroin from alternate sources of supply: namely, James Panabienko, Graziano Rizzo and Leonard Rizzo. Throughout the course of the trial, however, the record bears out the fact that the "Bronx" group had little contact with the Queens group except as a source of supply of heroin.

The Double Jeopardy-Claim

Alessi's claim of double jeopardy arises from his contention that the conspiracies alleged in the Eastern and Southern District indictments are the same and are covered by the plea-bargain agreement, and that the substantive counts in the Southern District indictment arise out of overt acts charged in the Eastern District indictment.

In United States v. Mallah, 503 F.2d 971 (2d Cir. 1974), cert.denied, 420 U.S. 995 (1975), the Court of Appeals reviewed the factors relevant to a determination of whether two allegedly separate conspiracies are, in fact, but one, including such key factors

as the "principals, the source of their drugs, the means and places of importation, their distribution points, and the centers from which they operated ...". United States v. Mallah, supra at 986 citing United States v. Aviles, 274 F.2d 179, 194 (2d Cir.) cert. denied, 362 U.S. 974 (1960).

In the Southern District indictment, the principals appear to be Manfredonia, Iarossi and Barone while Alessi, Papa, Passero and Frank D'Amato appear to be the principals in the Eastern District indictment. Although Alessi, Papa, Passero and D'Amato acted as the source of supply for the Bronx group, the two groups operated out of separate centers and employed different foot soldiers with the exception of William Huff who was a foot soldier common to both groups.

While the limited evidence indicates that Alessi, Papa, Passero and D'Amato received their heroin from a common stash in Queens, and that some of the heroin from this stash may have later been distributed to Manfredonia, Iarossi, and Barone, (Tr. at 792-94, 798, 805-07), this fact alone is not determinative of the question at hand. Persons operating a common stash may in fact be distributing the heroin to several groups without these secondary groups being part of the same conspiracy. These questions and others similar to it were discussed in United States v. Bertolotti, et al., ___ F.2d ___, Dkt. No. 75-1107 (November 10, 1975).

Here, there is no evidence that the Eastern District operation and the Southern District operation were linked together by any mutual dependence and assistance or that the members were aware of

their part in a larger organization. See United States v. Tranter, 513 F.2d 1087 (2d Cir. 1975), cert. denied, 44 U.S.L.W. 3201 (Oct. 6, 1975); United States v. Bynum, 485 F.2d 490 (2d Cir. 1973), vacated and remanded on other grounds, 417 U.S. 903 (1974). The record in the Iarossi trial establishes no more than that Manfronina, and perhaps Iarossi and Barone, did business with Alessi as a supplier of heroin for distribution in the Bronx, Pittsburgh, Pa., and Baltimore, Md. While the Eastern and Southern District conspiracies were alleged to have commenced around the same time, the two operated in different locations and with separate personnel. "Unlike the situation in Mallah, there is nothing here to suggest that one conspiracy was a part of the other, nothing to suggest that 'others to the Grand Jury unknown' masked an overlap of personnel, and nothing to suggest that the success of one was in any way dependent upon or related to the other." United States v. Papa, ___ F.2d ___, Dkt. No. 75-1208 (April 2, 1976). Moreover, the mere fact that Anthony Passero and William Huff are named as defendants in both indictments is not a sufficient connection to link two otherwise independent transactions or organizations into one conspiracy. Kottarakos v. United States, 328 U.S. 750, 773-74 (1946). To do so would be to ignore the recent warning of the Court of Appeals in United States v. Sperling, 506 F.2d 1323 (2d Cir. 1974), cert. denied, 420 U.S. 983 (1975):

"... [I]t has become all too common for the government to bring indictments against a dozen or more defendants and endeavor to force as many of them as possible to trial in the same proceeding on the

claim of a single conspiracy when the criminal acts could be more reasonably regarded as two or more conspiracies, perhaps with a link at the top." Id. at 1340-41.

For the foregoing reasons, the Court finds the Eastern District and Southern District indictments allege separate conspiracies; therefore, Alessi's due process rights are not violated by the prosecution of substantive violations in the Southern District Indictment. "[S]eparate indictments on separate counts are always available, without double jeopardy problems." United States v. Mallah, supra at 987.

The Eastern District Plea-Bargain Agreement

Alessi contends that the plea-bargain agreement between Vincent Papa and Special Strike Force Attorney James Druker extends equally to him and that the agreement provides there will be no further prosecution for any overt act encompassed within the Eastern District Indictment, 72 Cr. 473. Alessi now contends that the substantive counts in the Southern District Indictment, 75 Cr. 772, arise out of the overt acts in the Eastern District conspiracy and that the Government has broken its plea-bargain agreement with the filing of the indictment.

The details of the plea-bargain agreement were explored in detail in an evidentiary hearing before Judge Brieant on January 16, 1975 and, in a Memorandum and Order dated April 4, 1975, Judge Brieant concluded that a subsequent indictment filed in the Southern District naming Papa and alleging a separate conspiracy

was not barred by the Eastern District plea-bargain agreement.
United States v. Papa, et al., S74 Cr. 1082 (Memorandum and Order
dated April 4, 1975 at 25-36).

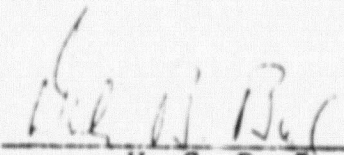
On April 2, 1976, the Court of Appeals affirmed Judge
Brieant, holding, as did Judge Brieant, "... that Druker's repre-
sentations to Mr. Papa's attorneys did not include the independent
investigation undertaken two years later in this [the Southern]
District, culminating in the present indictment," and that the
plea-bargain agreement in the Eastern District did not extend to
crimes in the Southern District. United States v. Papa, 7.21,
Dkt. No. 75-1208 (April 2, 1976).

Before the Court of Appeals' decision in Papa, Alessi con-
tended that Papa's plea-bargain agreement applied equally to him.
In view of the decision of the Court of Appeals in Papa, and finding
that the conspiracy alleged in the Southern District indictment is
separate from that alleged in the Eastern District indictment, the
plea-bargain agreement in the Eastern District does not bar the
Government from proceeding against Alessi under Indictment S75 Cr. 772.

Accordingly, Alessi's motion to dismiss the indictment is
denied.

It is so ordered.

Dated: New York, N.Y.
April 6, 1976



U. S. D. J.

Footnotes:

- 1/ The Court of Appeals issued a written opinion on January 20, 1976. United States v. Alessi, Dkt. No. 76-1021.
- 2/ The trial of Lawrence Iarossi, James Panebianco, Leonard Rizzo, Renato Croce, Patsy Anatola, Snider Blanchard and Charles Brooks began before this Court and a jury on January 21, 1976. On February 6, 1976, the jury returned a verdict of guilty as to all defendants on the conspiracy count (Count 1) and a verdict of guilty as to individual defendants on substantive counts 4, 8, 9, 10, 11, 12, 13, 14, 20, 21, 22 and 23.
- 3/ Judge Bricant deferred decision on Papa's motion to dismiss the indictment under double jeopardy and due process grounds until the conclusion of the trial.
- 4/ The defendant's last name appears as "DiAmatto" in the Eastern District indictment and as "D'Amato" in the Southern District indictment although the record indicates that the two names refer to the same person.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Filed
4/13/76

UNITED STATES OF AMERICA

-against-

NOTICE OF APPEAL

S75 Cr.772 (DBB)

VIRGIL ALESSI,

Defendant

SIR:

PLEASE TAKE NOTICE that the above named defendant hereby appeals to the United States Court of Appeals for the Second Circuit from the Memorandum and Order entered April 6, 1976, by Hon. Dudley B. Bonsal, United States District Judge, Southern District of New York, denying defendant's motion to dismiss the indictment herein.

Dated: New York, New York
April 12, 1976

Yours etc.,

Nancy Rosner
NANCY ROSNER
Attorney for Defendant
401 Broadway
New York, New York 10013
(212) 925-8844

TO: Hon. Robert B. Fiske, Jr.
United States Attorney

BEST COPY AVAILABLE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

SUPERSEDING INDICTMENT

✓ ANTHONY LORIA, SR. 21 U.S.C. 173
 ✓ WILLIAM HUFF, 21 U.S.C. 174
 ✓ NINO FAVIO, 18 U.S.C. 2
 ✓ GLENNARD SHAMIAN a/k/a MoJo, 21 U.S.C. 841
 ✓ DANNY LORIA, 21 U.S.C. 846
 ✓ VINCENT PAPA, 21 U.S.C. 848
 ✓ VIRGIL ALLESTI, 21 U.S.C. 848
 ✓ PAULA SILVESTRI, 21 U.S.C. 848
 ✓ SALVATORE GRAZIANO, 21 U.S.C. 848
 ✓ ANTHONY LORIA, JR., 21 U.S.C. 848
 ✓ JIM WILLIAMS, 21 U.S.C. 848
 ✓ EDGAR LEONARD, 21 U.S.C. 848
 ✓ ANTHONY PASCHERO, 21 U.S.C. 848
 ✓ HENRY UVINO, 21 U.S.C. 848
 ✓ SALLY PAIOLLA, 21 U.S.C. 848
 ✓ JOSEPH CESARIO a/k/a Joe Dirt, 21 U.S.C. 848
 ✓ RALPH LORIA, 21 U.S.C. 848
 ✓ FRANK DI MATTO, 21 U.S.C. 848
 ✓ JACQUELINE GARNER, 21 U.S.C. 848
 ✓ ROCCO EVANGELISTA, 21 U.S.C. 848
 ✓ DANNY RANIERI, 21 U.S.C. 848
 JOHN DOE, 21 U.S.C. 848

Defendants

THE GRAND JURY CHARGES:

COUNT ONE

On or about and between the 1st day of April, 1967 and the 16th day of December, 1971, both dates being approximate and inclusive, within the Eastern District of New York, the defendants ANTHONY LORIA, SR., WILLIAM HUFF, NINO FAVIO, GLENNARD SHAMIAN a/k/a MoJo, DANNY LORIA, VINCENT PAPA, VIRGIL ALLESTI, PAULA SILVESTRI, SALVATORE GRAZIANO, ANTHONY LORIA, JR., JIM WILLIAMS, EDGAR LEONARD, ANTHONY PASCHERO, HENRY UVINO, SALLY PAIOLLA, JOSEPH CESARIO a/k/a Joe Dirt, RALPH LORIA, FRANK DI MATTO, JACQUELINE GARNER, JOHN DOE, being a white male known only as NICK PASANO, ROCCO EVANGELISTA, DANNY RANIERI and others to the grand jury unknown, wilfully, unlawfully and knowingly did combine, conspire, confederate, and agree together and with each to violate prior to May 1, 1971, Sections 173 and 174 of Title 21, United States Code and on and after May 1, 1971, to violate Sections 812, 841(a)(1), 841(b), (1) (A), 951 (a)(1) and 952 of Title 21, United States Code.

1. It was a part of the said conspiracy that prior to May 1, 1971, the defendants unlawfully, wilfully and knowingly would receive, conceal, buy, sell, and facilitate the transportation, concealment and sale of a quantity of narcotics drugs, to wit: heroin, the exact amount thereof being to the

Grand Jury unknown, after the said narcotic drugs had been imported and brought into the United States in violation of Sections 173 and 174 of Title 21, United States Code;

2. It was further a part of said conspiracy that on and after May 1, 1971, the said defendants knowingly and intentionally would distribute and possess with intent to distribute and deliver a Schedule I narcotic drug controlled substance, the

unknown, in violation of

Title 21, United States Code;

In performance of

the following overt acts

and otherwise:

1. On or about April 1, 1969, the defendant ERNO FAZIO purchased approximately 1/2 kilogram of heroin from the defendant ANTHONY IONIA, SR., in the Eastern District of New York;
2. On or about December 25, 1968, ANGELO JOSEPH PARADISO received approximately 1/2 kilogram of heroin from the defendant ANTHONY IONIA, SR., in the Eastern District of New York;
3. On or about December 25, 1968, ANGELO JOSEPH PARADISO delivered approximately 1/2 kilogram to the defendant WILLIAM HUFF, in the Bronx, New York;
4. On or about January 15, 1969, ANGELO JOSEPH PARADISO delivered approximately 1/4 - 1/2 a kilogram of heroin to the defendant WILLIAM HUFF in New York, New York;
5. On or about January 15, 1969, the defendant JACQUELINE GARNIER received approximately 1/4 - 1/2 kilogram of heroin from ANGELO JOSEPH PARADISO, in New York, New York;
6. On or about September 15, 1970, the defendant EMMER LUGHEARD received approximately 1 kilogram of heroin from ANGELO JOSEPH PARADISO, in Bronx, New York;
7. On or about January 3, 1969, the defendant EDWARD DE AMIAN, a/k/a HoJo received approximately 1/8 kilogram of heroin from ANGELO JOSEPH PARADISO, in Bronx, New York;
8. On or about November 3, 1969, the defendant JOHN DOE, a white male known only as NICK FASANO, received approximately 1/8 kilogram of heroin from ANGELO JOSEPH PARADISO in Bronx, New York;

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9. On or about January 5, 1969, the defendant VINCENT PAPA delivered approximately one kilogram of heroin to the defendant ANTHONY LORIA, SR., in the Eastern District of New York;

10. On or about February 9, 1969, the defendants VINCENT PAPA and ANTHONY PIZZELLO delivered heroin to ANTHONY LORIA, SR., in the Eastern District of New York;

11. On or about January 1, 1969, the defendant SALVATORE GRAZIANO kept in his house approximately 1/4 kilogram of heroin, in the Eastern District of New York;

12. On or about January 1, 1970, the defendant ANTHONY LORIA, JR., kept in his house a quantity of heroin, in the Eastern District of New York;

12. On or about January 1, 1970, the defendant SALLY PAOLINA, in the Bronx, New York, received approximately 1/8 kilogram of heroin from ANGELO JOSEPH PARADISO;

14. On or about July 18, 1971, the defendants RALPH LORIA, and ANTHONY LORIA, SR., met with ANGELO JOSEPH PARADISO in the Eastern District of New York;

15. On or about July 29, 1971, the defendant WILLIAM HUFF had a conversation with ANGELO JOSEPH PARADISO, in the Bronx, New York.

16. On or about March 1, 1971, in Queens in the Eastern District of New York, Stanton Garland purchased a quantity of heroin from the defendant DANNY RANIERI.

17. On or about the 30th day of March, 1971 in Queens in the Eastern District of New York, the defendant DANNY RANIERI delivered a quantity of heroin to Stanton Garland.

18. On or about the 15th day of April, 1971, in Queens in the Eastern District of New York, the defendant DANNY RANIERI delivered a quantity of heroin to Stanton Garland.

19. On or about the 25th day of April, 1971, in Queens in the Eastern District of New York, the defendant DANNY RANIERI delivered a quantity of heroin to Stanton Garland.

20. On or about the 1st day of June, 1971, in the Eastern District of New York, Stanton Garland and the defendants, DANNY RANIERI, VINCENT PAPA, and VIRGIL ALESSI had a conversation.

21. On or about the 1st day of August, 1971 in the Eastern District of New York, Stanton Garland met with and had a conversation with the defendants DANNY RANIERI, ROCCO IWANGLISTA, VINCENT PAPA and VIRGIL ALESSI.

22. On or about the 8th day of September, 1971, in the Eastern District of New York, Stanton Garland and the defendants DANNY RANIERI, VIRGIL ALESSI and ROCCO EVANGELISTA met and had a conversation.

23. On or about the 13th day of December, 1971, in New York City, Stanton Garland and the defendants DANNY RANIERI and ROCCO EVANGELISTA had a conversation.

24. On or about the 14th day of December, 1971 in the Eastern District of New York, the defendant ROCCO EVANGELISTA delivered a quantity of heroin to Stanton Garland.

(Title 21, United States Code, Sections 173 and 174)
(Title 21, United States Code, Sections 815 and 963)

COUNT TWO

THE GRAND JURY FURTHER CHARGES:

On or about the 18th day of July, 1971, in the Eastern District of New York, the defendants RALPH LORIA, ANTHONY LORIA, SR., and DANNY LORIA knowingly and intentionally did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately 1.7 grams of heroin.

(Title 21, United States Code, Sections 812, 811(a)(1) and 811(b)(1)(A)
(Title 18, United States Code, Section 2)

COUNT THREE

THE GRAND JURY FURTHER CHARGES:

On or about the 27th day of July, 1971, within the Eastern District of New York, the defendant WILLIAM HUFF, unlawfully, wilfully and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately one gram of heroin.

(Title 21, United States Code, Sections 812, 811(a)(1) and 811(b)(1)(A)

COUNT FOUR

THE GRAND FURTHER CHARGES:

On or about the 6th day of August, 1971 within the Eastern District of New York, the defendant WILLIAM HUFF unlawfully, wilfully, and knowingly did possess with intent to distribute a Schedule I narcotic drug controlled substance to wit, approximately 5 ounces of heroin.

(Title 21, United States Code, Sections 812, 811(a)(1) and 811(b)(1)(A)

THE GRAND JURY FURTHER CHARGES:

From on or about the 1st day of March, 1967 up to and including the 10th day of December, 1971 both dates being approximate and inclusive, within the Eastern District of New York, the defendants VINCENT PAPA, VIRGIL ALESSI, ANTHONY PASSERO, ANTHONY LORIA, SR., and FRANK DI AMATTO, engaged in a continuing criminal enterprise as defined by subsection (b) of Title 21, United States Code, Section 848, in that the defendants VINCENT PAPA, VIRGIL ALESSI, ANTHONY PASSERO, ANTHONY LORIA, SR., and FRANK DI AMATTO violated sub-sections I and ⁷¹¹12 of Chapter 13 of Title 21 United States Code and in that such violations were part of a continuing series of violations of sub-chapters I and ⁷¹¹12 of Chapter 13 of Title 21 United States Code, in that the defendants VINCENT PAPA, VIRGIL ALESSI, ANTHONY PASSERO, ANTHONY LORIA, SR., and FRANK DI AMATTO acting in concert with five or more other persons with respect to whom VINCENT PAPA, VIRGIL ALESSI, ANTHONY PASSERO, ANTHONY LORIA, SR., and FRANK DI AMATTO each occupied a position of organizer, supervisor, and manager, and in that the defendants VINCENT PAPA, VIRGIL ALESSI, ANTHONY PASSERO, ANTHONY LORIA, SR., and FRANK DI AMATTO obtained substantial income or resources from the violations heretofore set forth.

(Title 21 United States Code, Section 848) ... is displayed in
A TRUE BILL

Mary T. [Signature]
FOREIGN

Robert A. Morse (Jad)
ROBERT A. MORSE
UNITED STATES ATTORNEY

1
2 Q Yes.

3 A Maybe three, four times.

4 Q Let me show you Government's Exhibit 2 for
5 identification. Do you recognize that photograph or the
6 location depicted in that photograph?

7 A Yes.

8 Q What is that?

9 A Scotts Pub.

10 Q Does that picture accurately reflect the way
11 Scotts Pub looked in 1970 and 1971?

12 A Yes.

13 Q Are there any changes in it, as far as you can see?

14 A No.

15 Q Is that place you have been talking about?

16 A Yes.

17 MR. LAVIN: The government offers Government's
18 Exhibit 2 in evidence.

19 Q Let me take you back, Mr. Manfredonia. You
20 said you used to go out to Astoria Colts quite often?

21 A Yes.

22 Q Did you ever see anyone out there you knew?

23 A Yes.

24 Q Who did you see out there?

25 A Graziano Rizzo.

Q Where is that?

A Astoria Boulevard, near the Triborough Bridge.

Q What would happen when you were waiting at this location?

A In the beginning mostly John D'Amato would deliver it to me. Sometimes Vinnie and Virgil or Virgil and Tony. I never knew who would be coming with it, really.

Q What were you doing with the heroin after you received it from them?

A Selling it.

Q Who were you selling it to during the early part of 1971?

A Alvin Clark, G. T. Watson, another customer of Joe Barone, whom I never met, and Charles Brooks.

Q Anyone else?

A '71?

Q '71, the early part of '71.

A Yes, Snider Blanchard.

Q How often did you sell to Mr. Blanchard?

A Maybe twice.

Q In '71?

A Yes.

1 you recall?

2
3 A Yes, we would give him the package and he
4 would make arrangements with Alvin Clark, where to meet
5 him, and Tommy Murray would deliver it.

6 Q You testified that during 1971 you obtained
7 heroin in Queens.

8 THE COURT: Let's take a short recess,
9 ladies and gentlemen.

10 (The jury left the courtroom.)

11 (Recess.)

12 (In open court; jury present.)

13 THE COURT: You may proceed, Mr. Lavin.

14 Q Who delivered the heroin to you physically
15 in Queens in 1971?

16 A Virgil Alessi, Anthony Passero, Frank D'Amato
17 and John D'Amato.

18 Q Was it one of those persons who delivered
19 it more than the others?

20 A Yes.

21 Q Who was that?

22 A John D'Amato.

23 Q Where in Queens would you take delivery of
24 the heroin in '71?

25 A Mostly by Lincoln-Mercury on Northern Boule-